

FEDERAL SECURITY AGENCY

FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

8501-8650

FOODS

The cases reported herewith were instituted in the United States District Courts by the United States attorneys acting upon reports submitted by direction of the Federal Security Administrator.

MAURICE COLLINS, Acting Administrator, Federal Security Agency.

WASHINGTON, D. C., April 22, 1946.

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BEVERAGES AND BEVERAGE MATERIALS

8501. Adulteration of loganberry punch. U. S. v. 17 Bottles of Loganberry Punch. Default decree of condemnation and destruction. (F. D. C. No. 13654. Sample Nos. 71673-F, 74808-F.)

LABEL FILED: September 14, 1944, Western District of Washington; amended October 20, 1944.

ALLEGED SHIPMENT: On or about June 30 and July 12, 1944, by the Albert's Products Co., from Portland, Ore.

PRODUCT: 17 1-gallon bottles of loganberry punch at Seattle, Wash.

LABEL, IN PART: "Albert's Special Loganberry Punch Artificially Colored Citric Acid Added."

NATURE OF CHARGE: Adulteration, Section 402 (a) (2), the article contained an added poisonous and deleterious substance, monochloroacetic acid, which was unsafe within the meaning of the law, since it was a substance not required in the production of the article, and it could have been avoided by good manufacturing practice.

DISPOSITION: September 7, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

8502. Misbranding of 505 Fermentation Inhibitor. U. S. v. 2 Bottles of 505 Fermentation Inhibitor. Tried to the court. Decree of condemnation. Product ordered released under bond. (F. D. C. No. 14022. Sample No. 77688-F.)

LABEL FILED: October 9, 1944, Eastern District of Pennsylvania.

ALLEGED SHIPMENT: On or about August 25, 1944, by the Sethness Products Co., from Chicago, Ill.

PRODUCT: 2 1-gallon bottles of 505 Fermentation Inhibitor at Philadelphia, Pa. Analysis showed that the product was an aqueous solution containing about 34 grams of monochloroacetic acid per 100 cc.

LABEL, IN PART: "Contains * * * Food Acid * * * Use: To be used in Acid products to prevent lactic and alcoholic fermentation and the growth or multiplication of yeast bacteria."

NATURE OF CHARGE: Misbranding, Section 403 (a), the labeling was misleading in that it failed to reveal the fact that the article contained about 34 grams, per 100 cc., of monochloroacetic acid, a poisonous and deleterious substance, which caused the article itself to be a poisonous and deleterious substance and which rendered it unwholesome and unsuitable for use as a component of food used by man.

DISPOSITION: On November 4, 1944, the Sethness Products Co., claimant, having filed a petition for the removal of the case for trial to another jurisdiction, an order was entered directing the transfer of the case to the Eastern District of Wisconsin. Thereafter, the claimant filed an answer denying the misbranding of the product and, on July 2, 1945, the case came on for trial before the court. After consideration of the testimony of the parties and the arguments of counsel, the court, on September 4, 1945, handed down the following findings of fact and conclusions of law:

DUFFY, District Judge:

FINDINGS OF FACT

"1. On or about the 25th day of August, 1944, said Sethness Products Company did ship and consign from Chicago, Illinois to Philadelphia, Pennsylvania said article so seized.

"2. That said article consists of a solution of monochloroacetic acid in water in the proportions of thirty-four grams of monochloroacetic acid to one hundred cubic centimeters of the article. Monochloroacetic acid is a poisonous and deleterious substance; and the article is a poisonous and deleterious substance.

"3. Said article was sold and shipped by claimant to be used as a component of food.

"4. When introduced into interstate commerce as aforesaid, the labeling of said article represented that it was a non-poisonous and harmless substance and failed to reveal the fact material in the light of such representation that said article is a poisonous and deleterious substance, and that by reason of said omission I find that said labeling was misleading within the meaning of Sec. 343 (a), Title 21, United States Code.

"5. That 505 Fermentation Inhibitor, when used in proportions not to exceed 500 parts per million, does not render foods or beverages injurious, deleterious or unsafe for human consumption.

"And I find as

CONCLUSIONS OF LAW

"1. That the said article under seizure is misbranded in violation of Sec. 343 (a), Title 21, United States Code, because its labeling is misleading within the meaning of Sec. 343 (a), and was introduced into interstate commerce in violation of Sec. 331 (a), Title 21, United States Code, and is subject to condemnation pursuant to Sec. 334 (a), Title 21, United States Code. Let a decree of condemnation be entered accordingly, with costs against the claimant."

On September 4, 1945, judgment of condemnation was entered and the said article, when used in proportions not to exceed 500 parts per million, does not render foods or beverages injurious, deleterious or unsafe for human consumption, the law, under the supervision of the Federal Security Agency.

8503. Misbranding of 505 Fermentation Inhibitor. U. S. v. 3 Jugs of 505 Fermentation Inhibitor. Default decree of condemnation and destruction. (F. D. C. Nos. 16141, 16142. Sample No. 23733-H.)

LIBELS FILED: On or about May 22, 1945, Southern District of Texas.

ALLEGED SHIPMENT: On or about November 9, 1944, by the Sethness Products Co., from Chicago, Ill.